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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION

CLRB HANSON INDUSTRIES, LLC d/b/a INDUSTRIAL PRINTING, and HOWARD STERN, on behalf of themselves and all others similarly situated,

Plaintiffs,

v.

GOOGLE, INC.,

Defendant.

CASE NO. C O5-03649 JW

DECLARATION OF M. CHRISTOPHER JHANG IN RESPONSE TO PLAINTIFFS' OPPOSITION TO GOOGLE INC.'S ADMINISTRATIVE MOTION TO FILE DOCUMENTS UNDER SEAL IN CONNECTION WITH GOOGLE INC.'S OPPOSITION TO PLAINTIFFS' SUPPLEMENTAL MEMORANDUM (DOCUMENT NOS. 154-155)

Date: June 11, 2007
Time: 9:00 a.m.
Dept.: Courtroom 8
Judge: Honorable James Ware

Dockets.Justia.com

I, M. Christopher Jhang, hereby declare as follows:

1. I am an attorney duly licensed to practice law in all of the courts of the State of California and this Court, and am an attorney with the law firm of Perkins Coie LLP, counsel for defendant Google Inc. ("Google") in this action. Pursuant to Civil Local Rule 79-5(d), I submit this declaration in response to the Declaration of Michele F. Raphael In Opposition To Defendant Google Inc.'s Administrative Motion To File Under Seal In Connection With Google Inc.'s Opposition To Plaintiffs' Supplemental Memorandum In Support of Partial Summary Judgment ("Plaintiffs' Opposition to Seal Documents"), filed with this Court on May 24, 2007 (Document Nos. 154-155). I have personal knowledge of the facts set forth below except as to those matters stated on information and belief, and as to those matters, I believe them to be true. If called upon to testify, I could and would testify competently as to the matters set forth herein.

2. Google's Opposition To Plaintiffs' Supplemental Memorandum In Support of Partial Summary Judgment ("Google's Supplemental Opposition") contains, discusses, or refers to information or documents that Google considers to be confidential, proprietary, or trade secret information. It discusses the operation of Google's AdWords system and references deposition testimony of Google's software engineers regarding Google's internal processes and information not available to the public, including proprietary technology related to the AdWords program and the development of new technology. It also discusses the content of Google's internal training materials.

3. The deposition transcripts, portions of which are attached as Exhibits A, B, and C to the Supplemental Declaration of M. Christopher Jhang In Support of Google's Supplemental Opposition ("Supplemental Jhang Declaration"), are confidential, in whole or in part, as set forth in the declaration supporting Google's motion to seal. *See* Declaration of M. Christopher Jhang In Support of Google Inc.'s Motion For Leave To File Documents Under Seal In Connection With Google Inc.'s Opposition To Plaintiffs' Supplemental Memorandum In Support of Partial Summary Judgment, ¶¶ 5-7. Notably, these transcripts that are the subject of Plaintiffs' complaints are the result of additional discovery ordered by the Court regarding "how the

AdWords system compensates for fluctuations in Internet traffic" – an issue that clearly calls for the discovery of confidential and proprietary information. *See* Court's February 8, 2007 Order.

4. Plaintiffs' claim that Google has improperly sealed the deposition transcript of its employee, Heather Wilburn, is unmerited. Exhibit C of the redacted version of the Supplemental Jhang Declaration is redacted in accordance with Google's tailored confidentiality designations.

5. Google will continue to confer with Plaintiffs in good faith regarding Google's confidential designations. Once the designations are finalized, Google will amend its redacted documents to conform with the final designations.

I declare under penalty of perjury under the laws of the State of California and the United States that each of the above statements is true and correct.

Executed May 31, 2007, in San Francisco, California.

PERKINS COIE LLP

By: ______/S/______
M. Christopher Jhang